

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK ANTHONY BROWN,
Plaintiff,
v.
D. EARLS Jr., *et al.*,
Defendants.

Case No. 2:22-cv-00359-JDP (PC)

ORDER

DENYING DEFENDANTS' PENDING
MOTIONS AS MOOT AND DIRECTING
THE CLERK OF COURT TO ASSIGN A
DISTRICT JUDGE TO THIS MATTER

ECF Nos. 29 & 38

FINDINGS AND RECOMMENDATIONS

THAT THIS MATTER BE DISMISSED FOR
FAILURE TO PROSECUTE AND COMPLY
WITH COURT ORDERS

OBJECTIONS DUE WITHIN FOURTEEN
DAYS

On October 10, 2023, defendants filed a motion to compel. ECF No. 29. On February 8, 2024, after plaintiff failed to file an opposition or statement of non-opposition to that motion, I ordered him to file an opposition or statement of non-opposition within twenty-one days. ECF No. 37. Plaintiff did not comply with that order. Accordingly, on March 19, 2024, I ordered him to show cause within twenty-one days why this action should not be dismissed for failure to prosecute and failure to comply with court orders. ECF No. 39. I warned him that failure to comply with that order would result in a recommendation that this action be dismissed. *Id.* at 2.

1 The deadline has passed, and plaintiff has not filed an opposition or statement of non-
2 opposition or otherwise responded.

3 Accordingly, it is hereby ORDERED that:

- 4 1. Defendants' motion to compel, ECF No. 29, is denied as moot.
- 5 2. Defendants' motion to vacate the dispositive motion deadline, ECF No. 38, is denied
6 as moot.
- 7 3. The Clerk of Court shall randomly assign a District Judge to this matter.

8 Further, it is hereby RECOMMENDED that:

- 9 1. This action be dismissed without prejudice for failure to prosecute and failure to
10 comply with court orders for the reasons set forth in the March 19, 2024, order.
- 11 2. The Clerk of Court be directed to close the case.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of
14 service of these findings and recommendations, any party may file written objections with the
15 court and serve a copy on all parties. Such document should be captioned "Objections to
16 Magistrate Judge's Findings and Recommendations." Any response shall be served and filed
17 within fourteen days of service of the objections. The parties are advised that failure to file
18 objections within the specified time may waive the right to appeal the District Court's order.
19 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
20 1991).

21
22 IT IS SO ORDERED.

23 Dated: May 9, 2024

24 
25 JEREMY D. PETERSON
26 UNITED STATES MAGISTRATE JUDGE
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